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PATENT APPLICATION

ATTORNEY DOCKET NO. 10008257-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Simpson, et al.

Confirmation No.: 4913

Application No.: 09/940,200

Examiner: Sall, El Hadji

Filing Date: 8-27-01

Group Art Unit: 2157

Title: System for Automatically Recognizing Devices Connected in a Distributed Processing Environment

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TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 6-23-06.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month
\$120

☐ 2nd Month
\$450

☐ 3rd Month
\$1020

☐ 4th Month
\$1590

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 500. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Simpson, et al.

Serial No.: 09/940,200

Filed: August 27, 2001

Group Art Unit: 2157

Examiner: Sall, El Hadji

Docket No. 10008257-1

For: **System for Automatically Recognizing Devices Connected in a Distributed Processing Environment**

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed June 23, 2006, responding to the Final Office Action mailed February 23, 2006.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

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I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 1-21 and 48-50 have been canceled leaving claims 22-47 remaining. Each of those claims stands finally rejected. No claims have been allowed. The final rejections of claims 22-47 are appealed.

IV. Status of Amendments

This application was originally filed on August 27, 2001, with twenty-one (21) claims. In a Response filed January 28, 2005, Applicant canceled claims 1-21, and added new claims 22-47. In a Response filed June 30, 2005, Applicant amended claims 22, 31, 32, 33, 39, and 42. In a Response filed August 23, 2005, Applicant amended claims 22,

32, 39, 42, and added claims 48-50. In a Response filed December 2, 2005, Applicant amended claims 22, 26, 32, 39, 42, and canceled claims 48-50.

All of the above-identified amendments have been entered and no other amendments have been made to any of claims 22-47. The claims in the attached Claims Appendix (see below) reflect the present state of those claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Independent claim 22 describes a method. The method comprises discovering devices directly connected to a network that are not directly connected to a computer. *Applicant's specification*, page 16, lines 11-13; Fig. 4A, item 402.

The method of claim 22 further comprises providing to a user via a network browser a list of at least one discovered device that is available for use on the network, wherein the list comprises at least one link to an available device. *Applicant's specification*, page 17, lines 19-20; Fig. 4B, item 422.

Independent claim 32 describes a device discovery service (Fig. 3, item 358) stored on a computer-readable medium. The system comprises logic configured to discover devices directly connected to a network that are not directly connected to a computer. *Applicant's specification*, page 16, lines 11-13; Fig. 4A, item 402.

The system of claim 32 further comprises logic configured to provide a user home service (Fig. 3, item 314) accessible with a network browser (Fig. 3, item 312) with a list of at least one discovered device that is available for use on the network. *Applicant's specification*, page 17, lines 1-3; Fig. 4A, item 412.

Independent claim 39 describes a web-based imaging home service (Fig. 3, item 314) stored on a computer-readable medium. The service comprises logic configured to query a network to detect a device discovery service. *Applicant's specification*, page 16, lines 17-18; Fig. 4A, item 408.

The service of claim 39 further comprises logic configured to receive a set of universal resource locators (URLs) that identify locations of devices discovered by the device discovery service, the devices directly connected to the network and not directly connected to a computer. *Applicant's specification*, page 17, lines 6-7, Fig. 4B, item 414.

The system of claim 39 further comprises logic configured to create links to the discovered devices. *Applicant's specification*, page 17, lines 13-16; Fig. 4B, item 418.

The system of claim 39 further comprises logic configured to provide the links to a user in the network browser. *Applicant's specification*, page 17, lines 19-20; Fig. 4B, item 422.

Independent claim 42 describes a system. The system comprises means (Fig. 3, item 358) for discovering devices directly connected to a network that are not directly connected to a computer. *Applicant's specification*, page 16, lines 11-13; Fig. 4A, item 402.

The system of claim 42 further comprises means (Fig. 3, item 314) for querying the means for discovering to receive a list of discovered devices. *Applicant's specification*, page 16, lines 18-19; Fig. 4A, item 408.

The system of claim 42 further comprises means (Fig. 3, item 314) for creating links to the discovered devices. *Applicant's specification*, page 17, lines 13-16; Fig. 4B, item 418.

The system of claim 42 further comprises means (Fig. 3, item 314) for providing the links to a user in a network browser for selection. *Applicant's specification*, page 17, lines 19-20; Fig. 4B, item 422.

VI. Grounds of Rejection to be Reviewed on Appeal

The following grounds of rejection are to be reviewed on appeal:

1. Claims 22-26, 29-37, 42, 43, and 45-47 have been rejected under 35 U.S.C. § 102(e) as being anticipated by *Goshey, et al.* ("Goshey," U.S. Pat. No. 6,327,613).
2. Claims 27, 28, 38, 39, 40, 41, and 44 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Goshey* in view of *Carcerano, et al.* ("Carcerano," U.S. Pat. No. 6,308,205).

VII. Arguments

The Appellant respectfully submits that Applicant's claims are neither anticipated under 35 U.S.C. § 102 nor obvious under 35 U.S.C. § 103, and respectfully requests that the Board of Patent Appeals overturn the final rejections of those claims at least for the reasons discussed below.

A. Claim Rejections - 35 U.S.C. § 102(e)

Claims 22-26, 29-37, 42, 43, and 45-47 have been rejected under 35 U.S.C. § 102(e) as being anticipated by *Goshey, et al.* ("Goshey," U.S. Pat. No. 6,327,613). Applicant respectfully traverses this rejection.

In the present case, not every feature of the claimed invention is represented in the Goshey reference. Applicant discusses the Goshey reference and Applicant's claims in the following.

1. The Goshey Disclosure

Goshey discloses a method and apparatus for sharing peripheral devices over a network. *Goshey*, Patent Title. As is described by Goshey, a system is envisioned in which a plurality of computers (e.g., 112a, 112b, and 112d) connected to a network 110 comprise external peripheral devices that are directly connected thereto. *Goshey*, column 4, lines 31-36; Fig. 2A. Each of the computers 112 is provided with software that enables the other computers connected to the network 110 to use the peripheral devices (e.g., 118, 120, 121, 122, 124) that are connected to the computers. *Goshey*, column 4, line 67 to column 5, line

5. In this manner, a first computer (e.g., 112d) may access and use a peripheral device directly connected to a second computer (e.g., 112b).

A specific example of the above functionality is provided in column 5. As is described by Goshey:

By way of example, if the Server (S) ScanLAN code is loaded onto computer 112b, and the Client (C) ScanLAN code is loaded onto computer 112d, then the user of computer 112d may be granted access privileges to the peripheral devices connected to computer 112b (which runs as a Server). Alternatively, each one of computers 112b and 112d may be loaded with both the Server and the Client ScanLAN code, which will therefore enable other users connected to the network to access the peripheral devices connected to both computer 112b and computer 112d, when they are running as a Server.

Goshey, column 5, lines 25-35.

From the above, it is clear that Goshey provides a system in which remote peripheral devices may be accessed and used *if* they are connected to a network-connected computer that comprises Goshey's "ScanLan" code.

2. Applicant's Claims

As is noted above, Goshey fails to teach several of Applicant's claim limitations. Applicant discusses some of those claim limitations in the following.

a. Claims 22-26, 29-31

Applicant's claim 22 provides as follows (emphasis added):

22. A method, comprising:
discovering devices directly connected to a network that are not directly connected to a computer; and
providing to a user *via a network browser* a list of at least one device that is available for use on the network, *wherein the list comprises at least one link to an available device.*

(i) No Teaching of Devices “Directly Connected” to a Network

Applicant notes that, as identified above, Goshey's system is described, and only described, as facilitating access to peripheral devices that are directly connected to a computer that comprises “ScanLan” code that enables peripheral device sharing. Accordingly, Goshey does not teach a method comprising “discovering devices *directly connected a network that are not directly connected to a computer*”, as is recited in claim 22.

In the Final Office Action and the Advisory Action, the Examiner argued that Applicant is incorrect in stating that Goshey fails to teach discovering devices “directly connected to a network” that are not “directly connected to a computer”. For support, the Examiner stated the following:

Column 5, lines 8-24, Goshey discloses users of a selected networked computer will then be able to access the peripheral devices connected to other network computers *as if* the peripheral devices were connected to their local computer.

Final Office Action, page 14 (emphasis added). Applicant sees nothing in the above statement that refutes the fact that Goshey does not teach discovering devices directly connected to a network that are not directly connected to a computer. Although, due to software provided on a computer that is directly connected to the peripheral device, a remote user can access the peripheral device “as if” it were connected to his computer, this still does *not* mean that the peripheral device is not in reality directly connected to a computer. To the contrary, the peripheral device in Goshey’s system identified by the Examiner *is* directly connected to a computer. Such an arrangement is *required* in the Goshey system because the only reason the remote user can access the peripheral device in the first place is due to the “ScanLan” software that runs on the computer to which the peripheral device is directly connected. Therefore, not only does Goshey’s system comprise peripheral devices directly connected to computers, Goshey’s system cannot provide the functionality described by Goshey if the peripheral devices were not so directly connected to the computer. In other words, it is *only* because a computer having the necessary software is placed between the network and the peripheral device that a remote user can use the peripheral device.

In addition, the Examiner argued in the Final Office Action and the Advisory Action that “[i]n figure 2C, it is clear that computer peripheral devices 118, 120 and 121 directly connected [*sic*] to the network.” See, e.g., *Final Office Action*, pages 14-15. This is clearly untrue. Figure 2C shows the *opposite* of what the Examiner asserts. Instead, Figure 2C shows each of peripheral devices 118, 120, and 121 only connected to the network *via a computer 112b*. Goshey, Fig. 2C. Nowhere in Figure 2C is a peripheral device directly connected to the network, which is clearly identified by a cloud containing the term “NETWORK.”

The Examiner further argued that because networks comprise routers, modems, etc., Goshey can be said to teach peripheral devices “connected to the network” but not directly connected to a computer, and the Examiner identifies the “host adapters” 116 for support. Ostensibly the Examiner is arguing that the host adapters, which simply comprise I/O devices that connect the computers 112 to their respective peripheral devices, comprise “networks.” Applicant responds by asserting that those simple adapters are not “networks” and that Goshey never describes them as being networks. Instead, the only “network” that is identified by Goshey is the “NETWORK” cloud to which the computers 112 are directly connected and the peripheral devices (e.g., 118, 120, 121) are indirectly connected via the computers. Goshey clearly does not teach the peripheral devices connected to the “NETWORK,” and if Goshey contemplated such an arrangement, Goshey would have shown the peripheral devices being directly connected to the “NETWORK” cloud. Again, Goshey *only* discloses and illustrates peripheral devices that connect to the “NETWORK” *through a host computer*. Those computers are required in the Goshey system because they contain the software that is necessary to access the peripheral devices from remote computers, which is the main focus of the Goshey disclosure.

(ii) No Teaching of Use of a “Network Browser”

As a further matter, Applicant notes that Goshey does not teach providing to a user “via a network browser” a list of at least one device that is available for use on the network “wherein the list comprises at least one link to an available device”. As described above, Goshey teaches accessing a remote peripheral device using software provided on the user’s computer and a remote computer to which the peripheral device is

directly connected. *Nowhere*, however, does Goshey state that such software comprises “network browser”, such as Internet Explorer or Mozilla Firefox. Applicant further notes that Goshey’s Figure 3D, which is relied upon for teaching such a “network browser”, clearly does not identify any such browser. Specifically, the window shown in that figure comprises no indication that it can be used to “browse” a “network”.

(iii) Dependent Claims

Applicant further notes that Goshey does not teach many of the limitations of the claims that depend from claim 22. For example, regarding dependent claim 25, Goshey further does not teach “creating a web service for a discovered device that is not a web-enabled device, the web service enabling access and use of the discovered device via the network”. Applicant notes that Goshey describes no such “web service” that is “created” when it is determined that a discovered device is not web enabled. That is further true of Goshey’s column 5, lines 8-24, which were identified by the Examiner. *Final Office Action*, page 4. Applicant notes that Goshey does not even address the issue of whether a peripheral device is or is not web enabled. That is understandable, however, because, as stated multiple times above, Goshey’s peripheral devices do not directly connect to a network in the first place. Therefore, whether Goshey’s peripheral devices are or are not web enabled is irrelevant in Goshey’s system.

Regarding dependent claim 29, Applicant reiterates that Goshey does not teach use of a “network browser” to access a remote peripheral device. It therefore follows that Goshey further does not teach “receiving with the network browser selection of the at least one link” associated with the peripheral device.

Regarding dependent claim 30, Goshey further does not teach “redirecting the network browser to the particular device”. Again, Goshey does not use a “network browser” to access remote peripheral devices. It logically follows that no network browser is “redirected” to the device when its “link” is selected.

b. Claims 32-37

Applicant’s claim 32 provides as follows (emphasis added):

32. A device discovery service stored on a computer-readable medium, the service comprising:

logic configured to discover devices directly connected to a network that are not directly connected to a computer; and

logic configured to provide a user home service accessible with a network browser with a list of at least one device that is available for use on the network.

Regarding claim 32, Goshey at least does not teach “logic configured to discover devices *directly connected to a network that are not directly connected to a computer*” or “logic configured to provide a user home service accessible *with a network browser* with a list of at least one device”, at least for reasons discussed in relation to claim 22. Applicant respectfully submits that Goshey therefore does not anticipate claim 32 and its dependents, and respectfully requests that the rejections against these claims be withdrawn.

With specific regard to dependent claim 37, Goshey further does not teach a discovery information provider service that is “configured to create web services for discovered devices that are not web-enabled devices, the web services enabling access

and use of the discovered devices via a network” for reasons described in relation to claim 25 above.

c. Claims 42, 43, and 45-47

Applicant’s claim 42 provides as follows (emphasis added):

42. A system, comprising:
means for discovering devices directly connected to a network that are not directly connected to a computer;
means for querying the means for discovering to receive a list of discovered devices;
means for creating links to the discovered devices; and
means for providing the links to a user in a network browser for selection.

Regarding claim 42, Goshey does not teach “means for discovering devices *directly connected to a network that are not directly connected to a computer*” or “means for providing the links to a user *in a network browser* for selection”, at least for reasons discussed in relation to claim 22. Applicant respectfully submits that Goshey therefore does not anticipate claim 42 and its dependents, and respectfully requests that the rejections against these claims be withdrawn.

With specific regard to dependent claim 45 Goshey further does not teach “means for creating web services for discovered devices that are not web-enabled device, the web services enabling access and use of the discovered devices via a network” for reasons described above in relation to claim 25.

Regarding dependent claim 47, Goshey further does not teach “means for redirecting the user browser to the particular device upon receipt of a user selection” for reasons described in relation to claim 30 above.

3. Conclusion

Due to the shortcomings of the Goshey reference described in the foregoing, Applicant respectfully asserts that Goshey does not anticipate Applicant’s claims. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

B. Claim Rejections - 35 U.S.C. § 103(a)

Claims 27, 28, 38, 39, 40, 41, and 44 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Goshey* in view of *Carcerano, et al.* (“Carcerano,” U.S. Pat. No. 6,308,205). Applicant respectfully traverses this rejection.

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in

the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art, and not based on applicant's disclosure.

In the present case, the prior art at least does not teach or suggest all of the claim limitations.

As identified above, Goshey does not teach explicit limitations of Applicant's claims. In that Carcerano does not remedy the deficiencies of the Goshey reference, Applicant respectfully submits that claims 27, 28, 38, and 44 are allowable over the Goshey/Carcerano combination for at least the same reasons that independent claims 22, 32, and 42 are allowable over Goshey.

The Examiner disagreed with Applicant as to Carcerano's failure to remedy the deficiencies of the Goshey reference. *See, e.g., Advisory Action*, page 2. In response, Applicant notes that, as described above, Goshey at least fails to teach "discovering devices directly connected to a network that are not directly connected to a computer". Applicant further notes that *nowhere* did the Examiner state that Carcerano teaches such discovering. Accordingly, neither reference provides the missing teaching and the Examiner fails to make a *prima facie* case of obviousness under 35 U.S.C. § 103 for failure to teach or suggest all of the claim limitations.

Turning to independent claim 39, Applicant recites (emphasis added):

39. A web-based imaging home service stored on a computer-readable medium, the service comprising:

logic configured to query a network to detect a device discovery service;

logic configured to receive a set of universal resource locators (URLs) that identify locations of devices discovered by the device discovery service, the devices directly connected to the network and not directly connected to a computer;

logic configured to create links to the discovered devices; and

logic configured to provide the links to a user in the network browser.

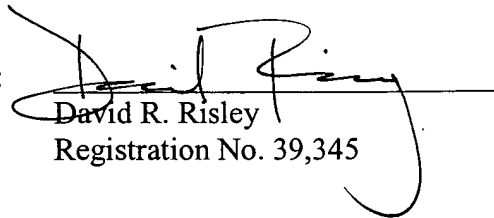
Goshey does not teach “logic configured to receive a set of universal resource locators (URLs) that identify locations of devices discovered by the device discovery service, the devices directly connected to the network and not directly connected to a computer” for reasons described in the foregoing.

VIII. Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

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Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

1-21. (Canceled)

22. A method, comprising:

discovering devices directly connected to a network that are not directly connected to a computer; and

providing to a user via a network browser a list of at least one discovered device that is available for use on the network, wherein the list comprises at least one link to an available device.

23. The method of claim 22, wherein discovering devices comprises querying the network with a discovery element to discover devices connected to the network.

24. The method of claim 23, further comprising adding the discovered devices to a discovery database.

25. The method of claim 22, further comprising creating a web service for a discovered device that is not a web-enabled device, the web service enabling access and use of the discovered device via the network.

26. The method of claim 22, wherein providing a list of at least one discovered device comprises providing a list of available devices to a user home service that is accessible using the network browser.

27. The method of claim 26, wherein the providing a list of available devices comprises providing a set of universal resource locators (URLs) to the user home service, the URLs identifying locations of the available devices.

28. The method of claim 27, further comprising creating the at least one link from the set of URLs using the home service.

29. The method of claim 22, further comprising receiving with the network browser selection of the at least one link that is associated with a particular device.

30. The method of claim 29, further comprising redirecting the network browser to the particular device.

31. The method of claim 30, wherein the particular device comprises a printer that does not comprise an integral server.

32. A device discovery service stored on a computer-readable medium, the service comprising:

logic configured to discover devices directly connected to a network that are not directly connected to a computer; and

logic configured to provide a user home service accessible with a network browser with a list of at least one discovered device that is available for use on the network.

33. (Previously amended) The device discovery service of claim 32, wherein the logic configured to discover devices is configured to discover printers connected to the network.

34. The device discovery service of claim 32, wherein the logic configured to discover devices comprises a discovery element configured to query the network to discover devices connected to the network.

35. The device discovery service of claim 34, wherein the logic configured to discover devices further comprises a discovery database configured to store a list of devices discovered by the discovery element.

36. The device discovery service of claim 32, wherein the logic configured to provide comprises a discovery information provider service.

37. The device discovery service of claim 36, wherein the discovery information provider service is configured to create web services for discovered devices

that are not web-enabled devices, the web services enabling access and use of the discovered devices via a network.

38. The device discovery service of claim 32, wherein the logic configured to provide comprises logic configured to provide a set of universal resource locators (URLs) that identify the locations of the discovered devices.

39. A web-based imaging home service stored on a computer-readable medium, the service comprising:

logic configured to query a network to detect a device discovery service;

logic configured to receive a set of universal resource locators (URLs) that identify locations of devices discovered by the device discovery service, the devices directly connected to the network and not directly connected to a computer;

logic configured to create links to the discovered devices; and

logic configured to provide the links to a user in the network browser.

40. The service of claim 39, further comprising logic configured to receive a user selection of a particular device.

41. The service of claim 40, further comprising logic configured to redirect the user browser to the particular device upon receipt of a user selection.

42. A system, comprising:

means for discovering devices directly connected to a network that are not directly connected to a computer;

means for querying the means for discovering to receive a list of discovered devices;

means for creating links to the discovered devices; and

means for providing the links to a user in a network browser for selection.

43. The system of claim 42, wherein the means for discovering comprise means for discovering printers connected to the network.

44. The system of claim 42, wherein the means for querying comprise a web-based imaging home service that is accessible using the network browser.

45. The system of claim 42, further comprising means for creating web services for discovered devices that are not web-enabled devices, the web services enabling access and use of the discovered devices via a network.

46. The system of claim 42, further comprising means for receiving a user selection of a particular device.

47. The system of claim 46, further comprising means for redirecting the user browser to the particular device upon receipt of a user selection.

48-50. (Canceled)

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.